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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,778	03/10/2004	Mark J. Perina		4152

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OMAHA, NE 68124

EXAMINER

LAUX, JESSICA L

ART UNIT	PAPER NUMBER
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3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/797,778	Applicant(s) PERINA, MARK J.	
	Examiner Jessica Laux	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-12 and 14-27 is/are rejected.
- 7) ☒ Claim(s) 4 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/06/2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 7-10, 12, 14, 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by de Roest (7160085).

Regarding claims 1, 7, 10 and 20-21: de Roest discloses a hollow elongated, wind turbine tower (10) comprising:

a plurality of elongated hollow pole sections(12) secured together in an end to end relationship (figure 10);

each of said hollow pole sections comprising a plurality of longitudinally extending peripheral sections (11) joined together;

each of said peripheral sections being bent along at least one longitudinally extending break line to define a plurality of angled wall sections extending between longitudinally inwardly extending edge portions (figure 12);

said edge portions of said peripheral sections being bolted together by bolt members to form a hollow pole section (Col. 6, lines 41-45).

Regarding claims 3 and 12: The structural member of claims 1 and 10 wherein each of said peripheral sections is generally C-shaped (figure 12).

Regarding claims 5 and 14: The structural member of claims 1 and 10 wherein each of said break lines is radiused (figure 12).

Regarding claims 8 and 16: The structural member of claims 1 and 10 wherein said hollow pole sections have a diameter sufficiently large enough to permit a person

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to be positioned therein (while de Roest does not expressly disclose the diameter of the mast the limitation "sufficiently large enough to permit a person to be positioned therein" is met as persons come in many sizes and the claim does not address the limitation of how much of the person is positioned within and therefore a person with a finger positioned within is considered to meet the claim limitations and the mast of de Roest is certainly capable of having a persons finger positioned within).

Regarding claims 9 and 17: The structural member of claims 1 and 10 wherein a plurality of braces are provided within said hollow pole sections which interconnect at least some of said edge portions (figures 13d and 14a-c).

Regarding claims 18 and 19: The wind turbine of claims 10 and 7 wherein three peripheral sections are joined together (figure 12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 , 11 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Roest (7160085).

Regarding claims 2 and 11: de Roest discloses the structural member of claims 1 and 10 above but does not disclose that the bolt members are accessible from only within the hollow pole section. However applicant has not disclosed that having the bolts accessible from only within the pole provides an advantage, solves a problem or

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is for a particular purpose. Therefore it would have been an obvious matter of design choice to have the bolts accessible from only within the pole as the bolt placement and accessibility of applicant's claimed invention and the mast of de Roest serve the same function of securing the mast sections together to allow for assembly/disassembly of the tower.

Regarding claims 22-27: de Roest discloses the structural member as in the above claims, but does not expressly disclose that the tower peripheral sections include first, second, third, fourth, fifth and sixth angled wall sections extending between the edge portions, nor does de Roest disclose the width dimensions of the angled sections. de Roest does disclose that the sections can be of various polygonal regular and irregular shapes. However, applicant has not disclosed that having the claimed angled wall sections and associated width dimensions provides an advantage is used for a particular purpose or solves a stated problem. Furthermore applicant discloses in the specification that any number or combination of angled sections may be used and further that a generally C-shaped member may be used. Therefore it is a matter of obvious design choice to a person of ordinary skill in the art to have such a claimed shape and dimension as applicant's claimed invention and that of de Roest perform the same function providing a structural mast for a wind turbine, equally well.

Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Roest (7160085) and reference to Koch, Jr. (6957518).

Regarding claims 6 and 15: de Roest discloses the structural member of claims 1 and 10 above but does not disclose that the pole sections are secured together by a

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plurality of splice plate assemblies. However, the use of splice plates to secure vertically adjacent members is well known in the art (reference US Patent 6957518), furthermore applicant has not disclosed that the use of splice plates provides an advantage, solves a problem or is used for a particular purpose. Therefore it would have been an obvious matter of design choice to use splice plates or the connection as disclosed by de Roest for connecting vertically adjacent sections as both connections would perform the function of connecting the sections together to form a turbine tower equally well.

Allowable Subject Matter

Claims 4 and 13 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 6:30am to 2:30pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL

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02/28/2007

Jeanette E. Chapman
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PRIMARY EXAMINER
GROUP ~~3400~~ 3635